

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	4:06CR3097
v.)	
)	
THOMAS PARK,)	
)	MEMORANDUM AND ORDER
Defendant.)	
_____)	

The probation officer preparing the presentence report has requested release of the report of a psychological evaluation of the defendant. I shall grant the request.

The evaluation was ordered by the undersigned at the time of revocation of the defendant's release, August 29, 2006. I said at the time I ordered the evaluation that I would have it produced to me only, and the pretrial services office was directed NOT to give it to counsel. At the time defendant's counsel said he was concerned about its use in the sentencing process, fearing that something in it might be damaging to defendant. I replied that I was inclined to give it in toto to both sides, but I would wait on that until I had reviewed it.

The report was received October 17, 2006, one day before the defendant entered his guilty plea. At the time of his guilty plea, defendant's counsel again requested that the report be sealed. I said I would consider any authority counsel would give me on that issue, and had them do so "as soon as possible." In the meantime I ordered it temporarily sealed. No authority was received from either side. I have not ordered any release, nor

have I entered an order making the temporary sealing order permanent.

I have again reviewed the evaluation report following receipt of the probation officer's request. There being no argument advanced to justify its continued sealing, I conclude it should be made available to counsel for both parties and to the probation officer.

IT THEREFORE HEREBY IS ORDERED,

1. The evaluation report shall be released to counsel and the probation officer at or after the close of business on November 30, 2006.

2. Any motion to stay this order pending appeal shall be filed and brought to the attention of the undersigned at or before 3:00 p.m. on November 30, 2006.

DATED this 28th day of November, 2006.

BY THE COURT:

s/ *David L. Piester*

David L. Piester
United States Magistrate Judge